

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. EB-02-DL-672
)	
Renaissance Radio, Inc.)	
Licensee of AM Broadcast Station KCAF)	NAL/Acct. No. 200332500005
in Farmersville, Texas)	
and Owner of Antenna Structure #1222577)	
in Caddo Mills, Texas)	FRN: 0003-7277-73
Dallas, Texas)	

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: April 21, 2003

By the Enforcement Bureau, Dallas Office:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find Renaissance Radio, Inc.¹ ("Renaissance Radio"), licensee of AM radio station KCAF, Farmersville, Texas, and owner of antenna structure #1222577 in Caddo Mills, Texas, apparently liable for a forfeiture in the amount of twenty-five thousand dollars (\$25,000) for willful and repeated violation of Sections 11.35(a), 17.51(a), and 73.49 of the Commission's Rules ("Rules").² Specifically, we find Renaissance Radio apparently liable for failing to have operational Emergency Alert System ("EAS") equipment, failing to exhibit red obstruction lighting from sunset to sunrise, and failing to provide an effective locked fence around the base of the radiating antenna tower.

II. BACKGROUND

2. On November 13, 2002, an agent of the Commission's Dallas Office ("Dallas Office") conducted an inspection of AM radio station KCAF. Installation of electrical service had not been completed to operate the required obstruction lighting on the station's centermost antenna structure (1222577). Mr. Ron Eudaly, while doing part time work for Renaissance Radio, stated that Renaissance Radio had not lighted their centermost antenna structure because the tower had radio frequency ("RF") potential at its base and equipment had not been installed to isolate the station's RF signal from the wiring of the structure's lighting system. Mr. Eudaly stated that the structure had been unlighted since about June 27, 2002, when the station first began transmitting from that location. Additionally, the FCC agent noted that Renaissance Radio had not installed any fencing around the base of KCAF's centermost antenna tower, even though the tower had RF potential at its base.

3. On November 21, 2002, the agent again inspected the KCAF tower site. At that time, plastic construction webbing was loosely strung between posts around the base of the

¹ Corporation name was changed from "The Watch, Inc." to "Renaissance Radio, Inc." effective August 26, 2002. As of February 3, 2003, registration data for antenna structures still listed in the name "The Watch, Inc."

² 47 C.F.R. §§ 11.35(a), 17.51(a), and 73.49.

antenna tower. A portion of this webbing sagged to almost ground level, allowing unrestricted access to the base of the tower.

4. On November 22, 2002, Mr. David Schum, principal owner of Renaissance Radio, telephoned the Dallas Office and stated that on this date, station KCAF had stopped broadcasting to install equipment to allow operation of the lights on KCAF's centermost tower.

5. On January 28, 2003, in response to a complaint of overpower operation, the agent inspected station KCAF. KCAF did not have receiving equipment installed so that EAS monitoring functions were available during station operation. Mr. Eudaly stated that EAS receivers had been installed at one time but never worked since at least August, 2002. Station KCAF had no records of receiving any EAS tests or activations, no explanations for failure to receive such tests, and no records showing that EAS equipment had been removed from service for repair.

III. DISCUSSION

6. Section 11.35(a) of the Rules requires that broadcast stations ensure that receiving equipment used as part of the Emergency Alert System is in operation. From at least August, 2002, until January 28, 2003, Renaissance Radio did not have operational EAS receivers installed at station KCAF, rendering the station's EAS monitoring capability inoperable. Station logs showed no evidence of receipt of any EAS tests or activations,³ no entries explaining the failure to receive such tests,⁴ and no entries showing EAS equipment had been removed from service for repair.⁵

7. Section 17.51(a) of the Rules requires that all red obstruction lighting shall be exhibited from sunset to sunrise unless otherwise specified. Renaissance Radio's antenna structure #1222577 must exhibit red obstruction lighting at night because the structure's antenna structure registration requires it and because the structure exceeds 200 feet in height.⁶ On November 13, 2002, Renaissance Radio did not have any electrical service for powering tower lights on their centermost tower. According to its representative, Renaissance Radio did not light KCAF's centermost antenna structure from about June 27 (the date the station began transmitting at its current location) through November 21, 2002.

8. Section 73.49 of the Rules requires antenna towers that have RF potential at the base to be enclosed within effective locked fences or other enclosures. The centermost antenna tower of station KCAF is series fed and has RF potential at the base. On November 13, 2002, there was no fence around the base of this tower and Renaissance Radio was verbally warned concerning this violation. On November 21, 2002, the only base fencing utilized at station KCAF was a plastic construction webbing loosely strung between posts around the base of the antenna tower. A portion of this webbing sagged to almost ground level and did not obstruct access to the base of the tower.

³ EAS activations and tests must be entered in the station log. *See* 47 C.F.R. §§ 11.55(c)(7) and 11.61(b).

⁴ *See* 47 C.F.R. § 11.35(a).

⁵ A broadcast station may operate for 60 days pending repair or replacement of defective EAS equipment, but entries must be made in the station logs showing when the equipment was removed and restored to service. *See* 47 C.F.R. § 11.35(b).

⁶ *See* 47 C.F.R. § 17.21(a).

9. Based on the evidence before us, we find that Renaissance Radio willfully⁷ and repeatedly⁸ violated Sections 11.35(a), 17.51(a), and 73.49 of the Rules by failing to have operational EAS equipment, failing to exhibit red obstruction lighting, and failing to provide an effective locked fence around the base of the radiating antenna tower.

10. Pursuant to Section 1.80(b)(4) of the Rules,⁹ the base forfeiture amount for failure to have operational EAS equipment is \$8,000, for failure to comply with prescribed tower obstruction lighting is \$10,000, and for AM tower fencing violations is \$7,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended (“Act”), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.¹⁰ Considering the entire record and applying the factors listed above, this case warrants a \$25,000 forfeiture.

IV. ORDERING CLAUSES

11. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,¹¹ and Sections 0.111, 0.311 and 1.80 of the Rules,¹² Renaissance Radio, Inc. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of twenty-five thousand dollars (\$25,000) for failing to have operational EAS equipment, failing to exhibit red obstruction lighting from sunset to sunrise, and failing to provide an effective locked fence around the base of the radiating antenna.

12. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NAL, Renaissance Radio, Inc. SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

13. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above.

⁷ Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘willful’, when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act” See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

⁸ The term “repeated,” when used with reference to the commission or omission of any act, “means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.” 47 U.S.C. § 312(f)(2).

⁹ 47 C.F.R. § 1.80(b)(4).

¹⁰ 47 U.S.C § 503(b)(2)(D).

¹¹ 47 U.S.C § 503(b).

¹² 47 C.F.R. §§ 0.111, 0.311, 1.80.

Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.¹³

14. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street SW, Washington, D.C. 20554, Attn: Enforcement Bureau-Technical and Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

15. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

16. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical and Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

17. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail, Return Receipt Requested to Renaissance Radio, Inc., 9400 North Central Expressway, Suite 1600, Dallas, TX 75231.

FEDERAL COMMUNICATIONS COMMISSION

James D. Wells
District Director
Dallas Office

Attachment A – FCC's List of Small Entities.

¹³ See 47 C.F.R. § 1.1914.